

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

ELBERT GLEAVES	]	
Plaintiff,	]	
	]	
v.	]	No. 3:13-0052
	]	Judge Trauger
DARON HALL, et al.	]	
Defendants.	]	

O R D E R

On April 30, 2013, the remaining defendants (Thomas Wright and John Stewart) filed a Motion to Dismiss (Docket Entry No.12), claiming that the prisoner plaintiff had failed to exhaust his administrative remedies prior to filing this action as required by the Prison Litigation Reform Act.

The plaintiff filed a letter (Docket Entry No.18) in response to the Motion to Dismiss.

Presently pending is a Report and Recommendation (Docket Entry No.19) from the Magistrate Judge in which she urges the Court to grant the defendants' Motion and dismiss the instant action without prejudice.<sup>1</sup> Also before the Court are the plaintiff's timely

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<sup>1</sup> The Motion to Dismiss has been treated as a Motion for Summary Judgment because matters outside the pleadings were presented to and not excluded by the Court. Rule 12(d), Fed.R.Civ.P.

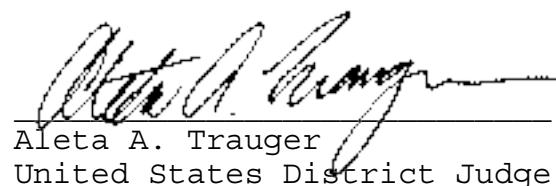
objections (Docket Entry No.22) to the Report and Recommendation.

A prisoner may not bring any suit with respect to prison conditions "until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). The Magistrate Judge found that the plaintiff, by failing to file an appeal to his grievance, did not properly exhaust his administrative remedies prior to filing the instant action. In his objections, the plaintiff confirmed this finding by stating "I want to let the courts know that I did not file an appeal because there wasn't any need to because the grievance system at CJC is faulty, unrewarding, and does not work."

There is no futility exception to the requirement of exhaustion. Napier v. Laurel County, Kentucky, 636 F.3d 218, 222 (6<sup>th</sup> Cir.2011). As a consequence, the Magistrate Judge correctly determined that the plaintiff could not bring his suit challenging prison conditions at this time.

Accordingly, the plaintiff's objections are OVERRULED. The Report and Recommendation is ADOPTED AND APPROVED in all respects. Defendants' Motion for Summary Judgment is GRANTED and this action is hereby DISMISSED without prejudice.

It is so ORDERED.



Aleta A. Trauger  
United States District Judge

